

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

AUSTIN REDDIX, }
Petitioner, } Civil Action No. 04-305 Erie
v. }
JOSEPH DESUTA, }
Respondent. }

MEMORANDUM ORDER

This habeas corpus action was received by the Clerk of Court on November 1, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 11], filed on December 2, 2005, recommended that the petition for writ of habeas corpus [Doc. No. 3] be dismissed as untimely and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Respondent. Petitioner filed a Motion for extension of time in which to file objections [Doc. No. 12] on December 14, 2005. The Magistrate Judge granted Petitioner's motion, and Petitioner had until January 6, 2006 in which to file objections. No objections were filed. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 9th day of January, 2006;

IT IS HEREBY ORDERED that the petition for writ of habeas corpus [Doc. No. 3] is DISMISSED as untimely, and a certificate of appealablity is DENIED.

The Report and Recommendation [Doc. No. 11] of Magistrate Judge Baxter, filed on December 2, 2005, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge